

REMARKS

Claims 33-35, 38-44, 47-53, 56-59, 61-67, 69, 70, and 72-81 are currently pending for examination.

Rejections in view of Saavedra

Claim 64 has been rejected under 35 U.S.C. §102(b) as being anticipated by Saavedra, *et al.*, U.S. Patent No. 5,632,981 ("Saavedra"). Claims 65 and 66, which each ultimately depend on claim 64, have been rejected in view of Saavedra under 35 U.S.C. §102(a), or in the alternative, under 35 U.S.C. §103(a). The Patent Office repeats its comments from the earlier Office Action of September 8, 2005, without change.

The Patent Office notes that Saavedra discloses saline, i.e., sodium chloride. However, the Patent Office has not indicated where in Saavedra is there a disclosure of creating a hostile biophysical environment comprising an ionic salt mixture comprising choline chloride, sodium chloride, and magnesium chloride, nor has the Patent Office provided any motivation to modify Saavedra to produce a hostile biophysical environment comprising an ionic salt mixture comprising choline chloride, sodium chloride, and magnesium chloride. It should be noted that claim 64, as was amended in response to the Office Action of September 8, 2005, does not recite a Markush group, but rather, recites "choline chloride, sodium chloride, *and* magnesium chloride [emphasis added]." As the Patent Office has not indicated where in Saavedra choline chloride and magnesium chloride are taught or suggested, nor has the Patent Office indicated where Saavedra teaches a hostile biophysical environment, it is believed that this rejection is improper. Accordingly, it is respectfully requested that the rejections of claims 64-66 be withdrawn.

Rejections in view of FR 2,740,453

Claims 33, 34, 64, and 70-73 have been rejected under 35 U.S.C. §102(a) as being anticipated by, or, in the alternative, under 35 U.S.C. §103(a) as being obvious over FR 2,740,453. The Patent Office repeats its comments from the Office Action of September 8, 2005, without change.

Independent claims 33 and 64 do not recite Markush groups. Instead, as amended, each of these claims recites "choline chloride, sodium chloride, and magnesium chloride." It is not seen where in FR 2,740,453 is there a disclosure or a suggestion of choline chloride, sodium chloride, and magnesium chloride, nor is it seen where there is any suggestion or motivation to add choline chloride or magnesium chloride. Furthermore, the Patent Office has not provided a disclosure or suggestion that FR 2,740,453 teaches or suggests a hostile biophysical environment. Thus, it is respectfully requested that the rejection of claims 33, 34, 64, 70, 72, and 73 be withdrawn (claim 71 was previously cancelled in a prior response).

Rejections in view of Gibson

Claims 33-35, 38, 64-67, 69, 70, 72, and 73 have been rejected under 35 U.S.C. §102(b) as being anticipated by, or in the alternative, under 35 U.S.C. §103(a) as being obvious over Gibson, U.S. Patent No. 4,871,839 ("Gibson").

As previously discussed, the claims as pending are generally directed to a hostile biophysical environment comprising an ionic salt mixture comprising choline chloride, sodium chloride, and magnesium chloride. It is not seen where this is disclosed or suggested in Gibson, and the Patent Office has only indicated that Gibson teaches sodium chloride. The Patent Office has not provided any motivation to add choline chloride or magnesium chloride, nor has the Patent Office provided a motivation to use a hostile biophysical environment. Accordingly, it is respectfully requested that the rejection of these claims be withdrawn.

Applicant is also somewhat confused by the description by the Patent Office of Whitmore, *et al.* (*J. Rheumatol.*, 11(1):50-54, 1995), Birder (*CAPLUS Abstract*, Vol. 1998, No. 548084), and Shahinpoor, *et al.* (U.S. Pat. Apl. Pub. No. 2002/0168424). It is not clear whether these references were intended to be combined with Gibson to form the obviousness rejection, and if so, if the references were intended to be combined singularly, or in combination. Clarification is respectfully requested.

Rejections in view of Brand

Claims 33-35, 38, 70, 72, and 73 have been rejected under 35 U.S.C. §102(b) as being anticipated by, or in the alternative, under 35 U.S.C. §103(a) as being obvious over Brand, U.S. Patent No. 4,681,897 ("Brand").

As previously mentioned, the claims as pending are generally directed to a hostile biophysical environment comprising an ionic salt mixture comprising choline chloride, sodium chloride, and magnesium chloride. The Patent Office has not pointed out where in Brand these are taught or suggested, nor has the Patent Office provided any motivation to add choline chloride or magnesium chloride, or to use a hostile biophysical environment. Accordingly, it is respectfully requested that the rejection of these claims be withdrawn.

Double Patenting Rejection in view of 10/201,635

Claims 33-35, 38-44, 47-53, 56-59, 61-67, and 69-81 have been rejected under the judicially-created doctrine of obviousness-type double-patenting as being unpatentable over claims 1-15 of U.S. Patent Application Serial No. 10/201,635.

As U.S. Patent Application Serial No. 10/201,635 has not yet been granted, Applicant respectfully requests deferral of this issue until the claims of this application and/or U.S. Patent Application Serial No. 10/201,635 have been more fully determined. It is also noted that claim 71 was cancelled in a prior response.


CONCLUSION

In view of the foregoing remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after the foregoing remarks, that the application is not in condition for allowance, the Examiner is requested to call the undersigned at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

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Respectfully submitted,

By 
Tani Chen, Sc.D.
Registration No.: 52,728
Patrick R.H. Waller, Ph.D.
Registration No.: 41,418
WOLF, GREENFIELD & SACKS, P.C.
Federal Reserve Plaza
600 Atlantic Avenue
Boston, Massachusetts 02210-2206
(617) 646-8396